Sectt. II-37—45,000—8-31-34.

Development (1936) Department.

Land SERIES.

G.O. No. 27

DATED 7. 1. 36

[Despatch Abstract.]

Forests - Assessment - South Kanara - Kan lands - Wrongly collected - Refund - Refused.

P. Ellard

Des.5385-I
25-11-35

Refce.No.1840/35-DI

Chepauk, Madras,
19- 11- 1935.

T.A.Whitehead Esq., I.F.S.,
Ag.Chief Conservator of Forests.

The Secretary to Government,
Development Department,
Fort St.George, M a d r a s.

Sir,

SUBJECT:- Assessment - South Kanara - Kan lands wrongly collected - Refund.

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Encs:-
To Govt.
(1) File of papers.
(2) C.C's L.Dis. 7670/34
(3) Two refund vouchers.
(4) Copy of A.G's letter F.18-6-7 d/-10-4-35.

When the Balpa extension was constituted a Reserved Forest with effect from 1st January 1912, vide G.O.No.3328 Revenue dated 8-11-1911 - S.No.252 of Guttigar village, which is a Kan holding, was included in this block. The Revenue Department collect the assessment on these lands, though it is credited to the Forest Department - vide G.O.104 Revenue, dated 4-2-1903 and the assessment on the field in question, Rs.1-5-0 a year, therefore appears to have been collected since 1912. The collection of the assessment during the period from 1912 - 1924 amounting to Rs.17-1-0 cannot now be verified, as the assessment receipts are not forthcoming, and as the connected records have been destroyed. The Kan-holder applied for the refund of the assessment in 1933 though at the time of the forest settlement no claim was put forward or enquired into. In the circumstances of the case, the Tahsildar, the District Forest Officer, and the Conservator are not in favour of the refund of the amount because the credit is not susceptible of check but the Collector's view is as follows:-

"It is not a usual case and I doubt if any awkward precedent would be caused by a refund, which seems due in equity".

So far 3 cases have come to my notice and I am not certain whether the sanctioning of this case may not be followed by many more claims the validity of which we cannot prove. The Accountant-General has no objection to the refund -- being sanctioned by me, vide copy of his letter enclosed. However as ordinarily the sanction of Government is -- required, I submit the case for the orders of Government.

2. A portion of S.No.37 of Guttigar village was similarly included in the Devachella Block when it was constituted (reserved forest) from ~~R.F.~~ 15-4-1908 - vide G.O.No.3165 Revenue, dated 24-12-1907. - In 1923, the Kan holder applied for the refund but owing to correspondence between the Forest ~~Department~~ and Revenue Departments the matter has not yet been disposed of. The present holder of this Kan came into possession of the land in 1919 and the Collector has recommended the refund from 1919 onwards. I therefore request orders of Government for the refund of Rs.10-2-0, being the assessment from 1919-1924, at Re.1-11-0 a year, the credit of which is not susceptible of check.

3. I enclose the connected papers relating to these cases for reference and return.

4. In the above two cases, as also in one other case, the Kan holders have also applied for refund of assessments paid subsequent to 1924. The credit of these assessments is -- susceptible of verification, and I have, with the concurrence of the Accountant-General, requested the Conservator to deal with the refunds under Section 165 of the Madras Forest Department and Account Code.

P.10 Sgl. I
BIC 33 3

M.F.Bridge 21/1
for Ag.Chief Conservator.

3

Enclosure.

Copy of letter No.F.18-6-7, dated 10-4-1935 from the Accountant-General (F.A.D.II), Madras, to the Chief Conservator of Forests, Madras.

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Subject:-Assessment - Kan - lands - South Kanara - Refunds.

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In reply to your letter reference No.1840/35/D-1 dated the 25th March 1935 on the subject indicated above, I have the honour to state that the rules in Articles 220 Madras Financial and Account Code, Vol.I and 409, Audit Code, require that every refund should be noted against the original credit in the departmental accounts and a certificate to this effect given on the refund voucher. Refunds made in relaxation of these rules would ordinarily require the sanction of Government.

2. In the case under reference, the original credit was stated to be not susceptible of verification, as the records relating to the period were destroyed and the assessment receipts were also not forthcoming. Consequently, the requirements of the rules quoted above could not be complied with. But as the amount involved was small viz., Rs.25-5-0 i.e.Rs.1-11-0 per year for 15 years, sanction of Government was not insisted on and the Conservator was informed that the refund could be made with your sanction.

C.F. 16.

DRAFT FOR APPROVAL.

Dev. Dept

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined ..		
When signed ..		
When despatched.		

SUBJECT :— Forests

Assessment – South Kanara – Kan lands – wrongly collected – refund – Sanctioned.

READ AGAIN , dated 19 .

" " " 19 .

READ *ALSO* :—

No. 5385 I/35 From the C. C. F. Ref , No. 1840/35-D1 dated 19-11-1935 . pp 1-2 cf

" " " " " 19

" " " " " 19

Order Ms. ~~Resolution Rout.~~ No. , dated 19 .

In the circumstances explained by the C.C.F. the Govt are pleased to sanction the refund of the assessment, wrongly collected, for the Kan lands included in the Reserved Forests in Sultigar village, South Kanara Dt, as detailed below.

S. no	Period during which collected From	To	Amount Rs
252	1912	1924	17-1-0
Portion 37 (portion)	1919	1924	10-2-0

To the C.C.F. with enclosures (Flags M P D)

" A.G. two' fin (a to o)

29-11-35

Fair

30.11.35

Note

The draft may go to finance

for acceptance. Revenue may also perhaps see.

29.11.35.

30/11/35

Will these portions be excluded from the Kan Patta and the assessment be remitted in future?

30.11.35

Submitted.

These portions were included in the Reserved Forests with effect from 1-1-1912 and 15-4-1908 respectively and they were, therefore, virtually excluded from the Kan patta from those dates. No assessment, in respect of these portions, is therefore due to start from those dates & the assessment collected, was wrong & it is proposed to refund it. After the matter has been brought to notice & after the parties concerned have put in refund applications, no assessment will be collected in future; not even will the parties ~~would~~ pay it. ~~The question of remitting the assessment does not therefore arise.~~ Orders of the Board

A'al P.1 and B'al P 2 c/.

2.12.35.

in question had not already been excluded from the Kanpatta ... it will be done hereafter & ~~thereafter~~ ~~corresponding~~ the amounts. No assessment will be collected from them. The collection already made was wrong. Please see portion marked R at P. 39 of (11)

RR
4.12.35.

JaR
2/12/35

Dem. 2-6-5385-D/35
5.12.35.

Revenue
Finance

Mr.
Mr. Finch
Mr.
Finance

Finance (Audit)

Please see the Chief Conservator's letter in the C.F.

It is submitted that it seems wrong in principle to sanction the refund of ~~non-tenure~~ ~~occupancy~~ the credit of which ~~is not susceptible of check~~. There is no ~~any~~ ~~proper~~ evidence to show that the Kamil assessment (mi and) paid prior to 1924

Remp S 8240-E/35-1
12.12.35

42250 Part

P. 39 of the Papers. The Conservator, Central Circle has stated that at (M)

there is nothing beyond a presumption to show that the assessment had actually been paid in the past and that it seems unsafe to act on this presumption. The Chief Conservator also says that the assessment appears to have been collected prior to 1925 and that the collection cannot now be verified. The fact that the A.G. has no audit objection to the proposed refund is no reason why the refund should be sanctioned as a matter of course. It is for orders whether, in the circumstances, this deptt may hold that there is no case for the refund as proposed in the draft order on page 1 ante.

portion K on ff 112 ff

para 2 on p 3 C F

RCB 18-12-35

MM 19/12/35

It is true that the claim is not susceptible of check, but the collector says that the party is entitled to refund as a matter of equity. The draft order on fn 1-2 ante may be accepted.

exception R on fn 1 C.F

W. 19.12.35

S

I am sorry that I cannot agree. It is an invariable rule that refund can only be sanctioned after verification of collection credit, and it would be most dangerous

to permit any infraction of such an elementary principle. Refusal may be refused as recommended by the Conservator

A

Cf. p.1 para X

21/12/35

Wy

Rec no 42250 Acts
23/12/35

Amend draft accordingly
24/12

Dem.

Dem. Draft.

DES 5940-I
24-12-35

To A.S.

A revised draft is submitted for approval.

RR
6/1/36 S.

PS
4.1.36 JaR
4/12/35

16/7/1

C.F.17.

DRAFT FOR APPROVAL.

Dev. Deptt.

	Date.	Initials.
When received for fair copying ..		
When copied ..	7/1	
When examined..		
When signed ..		GN 7.1.
When despatched.		

SUBJECT:—

Forests - Assessment - South Kanara - Kan lands - wrongly collected - refund - refused.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

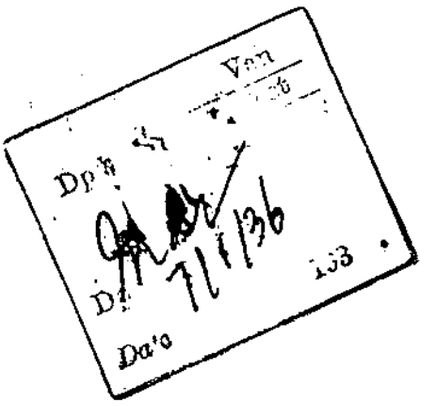
READ *ALSO*:—

C No. 5385-I/35 from the C.C.F. Ref. No. 1840/35-I dated 19-11-1935.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Ms. Resolution / Rept. No. 27, dated 7-1-1936.



The Government are ~~not pleased~~ unable to sanction the refund of the assessment ~~wrongly~~ said to have been collected for the Kan lands included in the reserved forest in Guttigar village, South Kanara district, as the credit of the collect~~ion of assessment~~ed amount ~~is~~ is not susceptible of check.

To the C.C.F. ~~Fin. deptt.~~ flags (M) (P) (D) with enclosures returned

P.S. 4.1.36

RR 6.1.36

JaR 4/1/36

7/1